

SENATE No. 918

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen M. Brewer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to missing persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Patricia D. Jehlen	Second Middlesex
Cynthia Stone Creem	First Middlesex and Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Todd M. Smola	1st Hampden
Jay R. Kaufman	15th Middlesex
Richard J. Ross	9th Norfolk
Kay Khan	11th Middlesex
Lida E. Harkins	13th Norfolk
David P. Linsky	5th Middlesex
Susan C. Tucker	Second Essex and Middlesex
Jennifer M. Callahan	18th Worcester
Bruce E. Tarr	First Essex and Middlesex
Steven A. Baddour	First Essex
Anne M. Gobi	5th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01366 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO MISSING PERSONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 38A of the General Laws is hereby added, by inserting the
2 following:-

3 **MISSING PERSON(S) REPORT**

4 (1) REPORT ACCEPTANCE. All law enforcement agencies within the state
5 shall accept without delay any report of a missing person(s). Acceptance
6 of a missing person(s) report may not be refused on any ground. No law
7 enforcement agency may refuse to accept a missing person report on that
8 basis that:

9 (A) The missing person(s) is an adult;

10 (B) The circumstances do not indicate foul play;

11 (C) The person(s) has been missing for a short period of time;

(D) The person(s) has been missing a long period of time;

(E) There is no indication that the missing person(s) was in the jurisdiction served by the law enforcement agency at the time of the disappearance;

(F) The circumstances suggest that the disappearance may be voluntary;

(G) The person(s) reporting does not have personal knowledge of the facts;

(H) The reporting individual cannot provide all of the information requested by the law enforcement agency;

(I) The reporting person lacks a familial or other relationship with the missing person;

(J) Or for any other reason.

(2) **MANNER OF REPORTING.** All law enforcement agencies shall accept missing person(s) reports by phone or in person. Law enforcement agencies are encouraged to accept reports by electronic or other media to the extent that such reporting is consistent with law enforcement policies or practices.

(3) **CONTENTS OF REPORT.** In accepting a report of a missing person(s), the law enforcement agency shall attempt to gather relevant information relating to the disappearance. The law enforcement agency shall attempt

33 to gather at the time of the report information that shall include, but not be
34 limited to, the following:

- 35 (A) The name of the missing person(s) (including alternative
36 names used);
- 37 (B) The date of birth;
- 38 (C) Identifying marks (such as birthmarks, moles, tattoos,
39 scars, etc.);
- 40 (D) Height and weight;
- 41 (E) Hair color;
- 42 (F) Eye color;
- 43 (G) Prosthetics or surgical implants;
- 44 (H) A photograph of the missing person(s) (recent photographs
45 are preferable; the agency is encouraged to attempt to
46 ascertain the approximate date the photograph was taken);
- 47 (I) A description of the clothing the missing person(s) was
48 believed to be wearing;
- 49 (J) A description of items that might be with the missing
50 person(s) (jewelry, accessories, shoes or boots etc.);

- 51 (K) The reasons why the reporting person(s) believes that the
52 person(s) is missing;
- 53 (L) Any circumstances that may indicate that the disappearance
54 was not voluntary;
- 55 (M) Any circumstances that indicate that the missing person(s)
56 may be at risk of injury or death;
- 57 (N) A description of the possible means of transportation of the
58 missing person(s) (including make, model, color, license,
59 and VIN of a vehicle);
- 60 (O) Any identifying information about a known or possible
61 abductor including;
- 62 (1) Name;
- 63 (2) A physical description;
- 64 (3) Date of birth;
- 65 (4) Identifying marks;
- 66 (5) The description of possible means of transportation
67 (including make, model, color, license, and VIN of
68 a vehicle);
- 69 (6) Known associates.

(P) Any other information that can aid in locating the missing person(s); and

(Q) Date of last contact.

(4) NOTIFICATION AND FOLLOW UP ACTION.

(A) NOTIFICATION. The law enforcement agency shall notify the person(s) making the report, a family member, or other person(s) in a position to assist the law enforcement agency in its efforts to locate the missing person(s):

(1) General information about the handling of the missing person(s) case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure would not adversely affect its ability to locate the missing person(s) or apprehended or prosecute any person(s) criminally involved in the disappearance;

(2) That the person(s) making the report or other necessary person(s) should return promptly to the law enforcement agency if the missing person(s) remains missing to provide additional information and materials, that will aid in locating the missing person(s). The law enforcement agency should also

91 notify the person(s) of the specific information or
92 materials needed;

93 (3) The law enforcement agency shall notify the
94 person(s) making the report that any DNA samples
95 provided for the missing person(s) case will be used
96 solely to help locate or identify the missing person
97 and will not be used for other purpose;

98 (4) The law enforcement agency is encouraged to make
99 available informational materials (through
100 publications or electronic or other media) that
101 advise the public about how the information or
102 materials identified in this subsection are used to
103 help locate or identify missing persons.

104 (B) FOLLOW UP ACTIONS. If the person(s) identified in the
105 missing person report remain missing after thirty days, and
106 the additional information and materials specified below
107 have not been received, the law enforcement agency shall
108 attempt to obtain:

109 (1) DNA samples from family members and/or from
110 the missing person(s) along with any needed
111 documentation required for the use of state or
112 Federal DNA databases;

113 (2) An authorization to release dental or skeletal x-rays
114 of the missing person(s);

115 (3) Any additional photographs of the missing
116 person(s) that may aid the investigation or
117 identification. The law enforcement agency shall
118 not be required to obtain written authorization
119 before it releases publicly any photograph that
120 would aid in the investigation or identification of
121 the missing person(s);

122 (4) Dental information and x-rays; and

123 (5) Fingerprints.

124 (C) All DNA samples obtained in missing person(s) cases shall
125 be immediately forwarded to the Department of State
126 Police's Crime Lab for analysis. The laboratory should
127 establish procedures for determining how to prioritize
128 analysis of the samples relating to missing persons cases;

129 (D) This subsection should not be interpreted to preclude a law
130 enforcement agency from attempting to obtain the materials
131 identified in this subsection before the expiration of the
132 thirty day period.

SECTION 2. LAW ENFORCEMENT ANALYSIS AND REPORTING OF MISSING
PERSON(S) INFORMATION.

(1) PROMPT DETERMINATION OF HIGH-RISK MISSING PERSON(S)

(A) DEFINITION. A high risk missing person(s) is an individual whose whereabouts are not currently known and the circumstances indicate that the individual may be at risk of injury or death. The circumstances that indicate that an individual is a “high risk missing person(s)” include, but are not limited to:

- (1) The person(s) is missing as a result of a stranger abduction;
- (2) The person(s) is missing under suspicious circumstances;
- (3) The person(s) is missing under unknown circumstances;
- (4) The person(s) is missing under known dangerous circumstances;
- (5) The person(s) is missing more than thirty (30) days;
- (6) The person(s) has already been designated as a “high risk missing person(s)” by another law enforcement agency;
- (7) There is evidence that the person(s) is at risk because:
 - (A) The person(s) missing is in need of medical attention;

- 152 (B) The person(s) missing does not have a pattern of
153 running away or disappearing;
- 154 (C) The person(s) missing may have been abducted by
155 non-custodial parent;
- 156 (D) The person(s) missing is mentally impaired;
- 157 (E) The person(s) missing is a person under the age of
158 twenty-one;
- 159 (F) The person(s) missing has been the subject of past
160 threats or acts of violence.

161 (B) LAW ENFORCEMENT RISK ASSESSMENT.

- 162 (1) Upon initial receipt of a missing person(s) report, the law
163 enforcement agency shall immediately determine whether
164 there is a basis to determine that the person(s) missing is a
165 high risk missing person(s);
- 166 (2) If a law enforcement agency has previously determined that
167 a missing person(s) is not a high risk missing person(s), but
168 obtains new information, it shall immediately determine
169 whether the information provided to the law enforcement
170 agency indicates that the person(s) missing is a high risk
171 missing person(s);

(3) Risk assessments identified in this subsection shall be performed not later than twenty four hours after the initial missing person(s) report or the new information was provided to the law enforcement agency.

(C) LAW ENFORCEMENT AGENCY REPORTS.

(1) When the law enforcement agency determines that the missing person(s) is a high risk missing person(s) it shall notify the Criminal History Systems Board. It shall immediately provide to the Department of State Police the information most likely to aid in the location and safe return of the high risk missing person(s). It shall provide as soon as practicable all other information obtained relating to the missing person(s) case;

(2) The Department of State Police shall promptly notify all law enforcement agencies within the state of the information that will aid in the prompt location and safe return of the high risk missing person(s);

(3) The local law enforcement agencies who receive the notification from the state agency specified in subsection (2) shall notify officers to “be on the look out” for the missing person(s) or a suspected abductor;

193 (4) The Department of State Police shall promptly enter all
194 collected information relating to the missing person(s) case
195 in available state and Federal databanks. The information
196 shall be provided to in accordance with applicable
197 guidelines relating to the databases. The information shall
198 be entered as follows:

199 (A) A missing person(s) report in high risk missing
200 person(s) cases (and relevant information provided
201 in the report shall be entered in the National Crime
202 Information Center database within four hours of
203 the determination that the missing person is a high
204 risk missing person; All other missing person(s)
205 reports (and relevant information provided in the
206 report) shall be entered within one day after the
207 missing person(s) report is received. Supplemental
208 information is high-risk missing person(s) cases
209 should be entered as soon as practicable;

210 (B) All DNA profiles shall be uploaded into the state
211 missing person(s) database and the FBI Missing
212 Person DNA Database within five business days
213 after completion of the DNA analysis and other
214 procedures required for database entry;

215 (C) Information relevant to the Federal Bureau of
216 Investigation's Violent Criminal Apprehension
217 Program shall be entered as soon as possible.

218 (5) The Department of State Police shall ensure that person(s)
219 entering data relating to medical or dental records in state
220 or Federal databases are specifically trained to understand
221 and correctly enter the information sought by these
222 databases. The Department of State Police is strongly
223 encouraged to either use person(s) with specific expertise in
224 medical or dental records for this purpose or consult with
225 the Office Of The Chief Medical Examiner to ensure the
226 accuracy and completeness of information entered into the
227 state and Federal databanks;

228 (6) Pursuant to any applicable state criteria, local law
229 enforcement agencies should also provide for the prompt
230 use of an Amber Alert or public dissemination of
231 photographs in appropriate high risk cases;

232 SECTION 3. REPORTING OF DEATH UNIDENTIFIED PERSONS/HUMAN
233 REMAINS

234 (1) HANDLING OF DEATH SCENE INVESTIGATIONS.

235 (A) The Department of State Police shall provide information
236 to local law enforcement agencies about best practices for
237 handling death scene investigations;

238 (B) The Department of State Police shall identify any
239 publications or training opportunities that may be available
240 to local law enforcement agencies or law enforcement
241 officers concerning the handling of death scene
242 investigations.

243 (2) LAW ENFORCEMENT REPORTS.

244 (A) After performing any death scene investigation deemed
245 appropriate under the circumstances, the law enforcement
246 agency shall ensure that the human remains are delivered to
247 Office of The Chief Medical Examiner;

248 (B) A law enforcement agency that locates human remains that
249 are not identified within 24 hours shall promptly notify the
250 Department of State Police of the location of those remains;

251 (C) If the law enforcement agency cannot determine whether or
252 not the remains found are human, it shall notify the
253 Department of State Police of the existence of possible
254 human remains.

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SECTION 4. UNIDENTIFIED PERSONS/HUMAN REMAINS IDENTIFICATION
RESPONSIBILITIES.

(1) If the official with custody of the human remains is not a medical examiner, the official shall promptly transfer the unidentified remains to the Office of The Chief Medical Examiner with responsibility for seeking to determine the identity of the human remains;

(2) Notwithstanding any other action deemed appropriate for the handling of the human remains, the medical examiner shall make reasonable attempts to promptly identify human remains. These actions may include but are not limited to obtaining:

(A) Photographs of the human remains (prior to an autopsy);

(B) Dental or skeletal X-rays;

(C) Photographs of items found with the human remains;

(D) Fingerprints from the remains (if possible);

(E) Sample[s] of tissue suitable for DNA typing (if possible);

(F) Sample[s] of whole bone or hair suitable for DNA typing;

277 (G) Any other information that may support
278 identification efforts.

279 (3) No medical examiner or any other person shall cremate, dispose of,
280 or engage in actions that will materially affect the unidentified
281 human remains before the medical examiner obtains:

282 (A) Samples suitable for DNA identification, archiving;

283 (B) Photographs of the unidentified person/human
284 remains; and

285 (C) All other appropriate steps for identification have
286 been exhausted.

287 (4) The medical examiner or the Department of State Police's Crime
288 Lab shall make reasonable efforts to obtain prompt DNA analysis
289 of biological samples, if the human remains have not been
290 identified by other means. The medical examiner or the
291 Department of State Police's Crime Lab shall seek support from
292 appropriate state and Federal agencies for human remains
293 identification efforts. Such support may include, but is not limited
294 to, available mitochondrial or nuclear DNA testing, Federal grants
295 for DNA testing, or Federal grants for crime laboratory or medical
296 examiner office improvement;

297 (5) The medical examiner Department of State Police shall promptly
298 enter information in Federal and state databases that can aid in the
299 identification of missing person(s). Information shall be entered in
300 Federal databases as follows:

301 (A) Information for the National Crime Information
302 Center within twenty four hours;

303 (B) DNA profiles and information into the Federal
304 Bureau of Investigation's Missing persons DNA
305 Database within five business days after the
306 completion of the DNA analysis and procedures
307 necessary for the entry of the DNA profile; and

308 (C) Information sought by the Violent Criminal
309 Apprehension Program database as soon as
310 practicable.

311 (6) If medical examiner office personnel do not input the data directly
312 into the Federal databanks, the Department of State Police shall
313 consult with the medical examiner's office to ensure appropriate
314 training of the data entry personnel and the establishment of a
315 quality assurance protocol for ensuring the ongoing quality of data
316 entered in the Federal and state databases;

317 (7) Nothing in this Act shall be interpreted to preclude any medical
318 examiner office, the Department of State Police, or a local law

319 enforcement agency from pursuing other efforts to identify
320 unidentified human remains including efforts to publicize
321 information, descriptions or photographs that may aid in the
322 identification of the unidentified remains, allow family members to
323 identify missing person(s), and seek to protect the dignity of the
324 missing person(s).